

REMARKS

In the outstanding Office Action, claims 1, 2, 4-7, 120-157, and 164-167 were rejected under 35 U.S.C. § 102(b) as anticipated by at least one of U.S. Patent Nos. 4,424,810 to Jewusiak; 4,449,531 to Cerwin et al.; and 5,620,452 to Yoon.

By this Response, Applicants have amended claims 1, 4, 120, 124, 129, 135, 137, 138, 142, and 148, and have canceled claims 122, 123, 125, 128, 136, 139, and 141. Accordingly, claims 1, 2, 4-7, 120, 121, 124, 126, 127, 129-135, 137, 138, 140, 142-157, and 164-167 are pending in this application. Support for the above claim amendments can be found, for example, in Figs. 6A, 7, and 8, and paragraph nos. 0074, 0077, and 0078 of Patent Application Publication No. 2002/0082621 A1 corresponding to this application. No new matter has been added by this Response.

Applicants respectfully traverse the rejection of independent claim 1 under 35 U.S.C. § 102(b) as anticipated by both Cerwin et al. and Yoon. Cerwin et al. and Yoon both fail to disclose or suggest the device recited in amended independent claim 1. In particular, Cerwin et al. and Yoon both fail to disclose or suggest, for example, among other things, a device for securing a fold of tissue that includes a first arm, a second arm disposed substantially opposite to the first arm, and at least one of the first and second arms including an integral anchoring portion protruding from at least one of the first and second arms and configured to maintain a non-contacting relationship with the other of the first and second arms when the device is in a final tissue-fold-securing position, as recited in independent claim 1. For at least this reason, Applicants request that the rejection of claim 1 as anticipated by both Cerwin et al. and Yoon be withdrawn.

Cerwin et al. is directed to hemostatic clips for clamping tubular structures between opposite ends of the clip, and latching the clips into secured configurations. See, for example, Fig. 3 of Cerwin et al. As shown in the embodiments of Figs. 1, 2, and 7 of Cerwin et al., the disclosed clips may include a protrusion (14, 38, and 66, respectively) extending from one leg member and configured to engage a similarly shaped recess in an opposite leg member of the clip to latch the clip closed. This is in contrast to the device recited in claim 1, which includes a first and second arm, wherein one of the arms includes an integral anchoring portion protruding therefrom, *the anchoring portion configured to maintain a non-contacting relationship with the other of the first and second arms when the device is in a final tissue-fold-securing position.* Accordingly, the protrusions of Cerwin et al. that completely bridge the leg members to latch the disclosed clip cannot anticipate the anchoring portion recited in independent claim 1.

Similar to Cerwin et al., the surgical clip of Yoon includes penetrating legs 50 that extend from one arm 16 to and through an opposite arm 18 to secure the arms together. See Figs. 5 and 15 of Yoon. Again, this is in contrast to the anchoring portion of claim 1 that is integral with a first arm and is configured to maintain a non-contacting relationship with a second arm when the device is in a final tissue-fold-securing position.

In view of the above, Applicants respectfully request that the rejections of independent claim 1 in view of both Cerwin et al. and Yoon be withdrawn. Also, Applicants request that the rejections of dependent claims 2, 4-7, and 164 be withdrawn based at least on their dependency from independent claim 1.

Independent claim 120 includes similar recitations to those of claim 1 cited above as missing from Cerwin et al. and Yoon. In particular, claim 120 recites a clip including a first arm, a second arm, and an integral anchoring portion protruding from at least one of the first and second arms and configured to maintain a non-contacting relationship with the other of the first and second arms when the clip is in a final tissue-fold-securing position. As noted above, Cerwin et al. and Yoon both fail to disclose or suggest at least this aspect of independent claim 120. Accordingly, Applicants request that the rejections of independent claim 120 in view of Cerwin et al. and Yoon be withdrawn, as well as those of claims 121, 124, 126, 127, 129-134, and 165 that depend from independent claim 120.

Independent claim 120 was also rejected as anticipated by Jewusiak. Jewusiak is directed to ligating clips for clamping tubular structures between opposite ends of the clip, and locking the clip into a secured configuration. See, for example, Fig. 2 of Jewusiak. As shown in Fig. 1 of Jewusiak, the disclosed clip may include a hook 14 extending from one leg member 11 and configured to lock with a mating portion of an opposite leg member 12 of the clip.

Jewusiak contains the same deficiencies noted above with respect to Cerwin et al. and Yoon. In particular, Jewusiak fails to disclose or suggest, for example, among other things, a clip including a first arm, a second arm, and an integral anchoring portion protruding from at least one of the first and second arms and configured to maintain a non-contacting relationship with the other of the first and second arms when the clip is in a final tissue-fold-securing position, as recited in independent claim 120. For at least this reason, Applicants request that the rejection of independent claim 120 in view of

Jewusiak be withdrawn, along with the corresponding rejections of dependent claims 121, 124, 126, and 130, that depend from independent claim 120.

Independent claim 135 includes similar recitations to those of claims 1 and 120 cited above as missing from Cerwin et al., Yoon, and Jewusiak. In particular, claim 135 recites a clip including a first arm, a second arm, and an anchoring portion integrally formed with one of the first and second arms, the anchoring portion configured to maintain a non-contacting relationship with the other of the first and second arms when the clip device is in a final tissue-fold-securing position. As noted above, Cerwin et al., Yoon, and Jewusiak all disclose devices having securing members that lockingly engage a first arm/leg to a second arm/leg, rather than an arm having an anchoring portion configured to maintain a non-contacting relationship with another arm. Accordingly, for the reasons set forth above, Applicants request that the rejections of independent claim 135 in view of Cerwin et al., Yoon, and Jewusiak be withdrawn, as well as those of claims 137, 138, 140, 142-147 and 166 that depend from independent claim 135.

Finally, Applicants also respectfully traverse the rejection of independent claim 148 under 35 U.S.C. § 102(b) as anticipated by each of Cerwin et al., Yoon, and Jewusiak. Independent claim 148 includes similar recitations to those of claims 1, 120, and 135 cited above as missing from Cerwin et al., Yoon, and Jewusiak. In particular, claim 148 recites a clip including a first arm, a second arm, and a projection extending only partially into the gap between the first and second arms when the clip is in a final tissue-fold-securing position. As noted above, Cerwin et al., Yoon, and Jewusiak all disclose devices having securing members that extend completely between a first

arm/leg and a second arm/leg to lockingly engage the arms/legs. Accordingly, for the reasons set forth above, Applicants request that the rejections of independent claim 148 in view of Cerwin et al., Yoon, and Jewusiak be withdrawn, as well as those of claims 149-157 and 167 that depend from independent claim 148.

The final Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the final Office Action.

If there is any fee due in connection with the filing of this Response that is not otherwise provided with the filing, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

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